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# **PRELIMINARY DRAFT**

## **No. 3176**

**PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2008 GENERAL ASSEMBLY**

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### **DIGEST**

**Citations Affected:** IC 5-10.2.

**Synopsis:** PERF annuity savings accounts. Allows a member of the public employees' retirement fund (PERF) who: (1) is vested; (2) separates from employment; (3) does not perform service in a covered position for at least 90 days; and (4) is not eligible at separation to receive a retirement benefit; to elect to withdraw the entire amount in the member's annuity savings account. Provides that, unless the member has transferred the creditable service earned in PERF to another governmental retirement plan, a PERF member who elects to withdraw the entire amount in the member's annuity savings account is entitled to receive, when the member becomes eligible to receive a retirement benefit, a benefit equal to the pension provided by employer contributions.

**Effective:** July 1, 2008.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-10.2-2-8 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) For a member  
3       who retires with service in more than one (1) retirement fund, the last  
4       retirement fund in which the member rendered service shall pay the  
5       retirement benefits to the member. The pension shall be computed and  
6       vested status shall be determined on the basis of combined creditable  
7       service. The annuity, if any, shall be computed on the basis of amounts  
8       credited to the member in annuity savings accounts in all funds **minus**  
9       **any amount withdrawn by the member under IC 5-10.2-3-6.5.** The  
10      funds in which the employee was a member shall pay to the fund  
11      responsible for payment of benefits:

12           (1) the amount credited to him in the annuity savings account; and

13           (2) the proportionate actuarial cost of his pension.

14      (b) A member of the Indiana state teachers' retirement fund who has  
15      served as a member of the general assembly and who retires after June  
16      30, 1980, may choose at his retirement date whether to retire from the  
17      Indiana state teachers' retirement fund or from the public employees'  
18      retirement fund. If he chooses to retire from the public employees'  
19      retirement fund, that fund is responsible for the payment of benefits  
20      provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund  
21      shall pay to the public employees' retirement fund:

22           (1) the amount credited to that member in the annuity savings  
23           account in the Indiana state teachers' retirement fund; and

24           (2) the proportionate actuarial cost of his pension.

25      SECTION 2. IC 5-10.2-3-1.2 IS AMENDED TO READ AS  
26      FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. (a) A member who  
27      has earned at least ten (10) years of service in a position covered by  
28      PERF, TRF, or a combination of the two (2) funds may purchase one  
29      (1) year of service credit for each five (5) years of service that the  
30      member has completed in a position covered by PERF or TRF.

31      (b) Before a member retires, a member who desires to purchase



1 additional service credit under subsection (a) must contribute to the  
2 fund as follows:

3 (1) Contributions that are equal to the product of the following:

4 (A) The member's salary at the time the member actually  
5 makes a contribution for the service credit.

6 (B) A rate, determined by the actuary for the fund, that is  
7 based on the age of the member at the time the member  
8 actually makes a contribution for the service credit and  
9 computed to result in a contribution amount that approximates  
10 the actuarial present value of the benefit attributable to the  
11 service credit purchased.

12 (C) The number of years of service credit the member intends  
13 to purchase.

14 (2) Contributions for any accrued interest, at a rate determined by  
15 the actuary for the fund, for the period from the member's initial  
16 membership in the fund to the date payment is made by the  
17 member.

18 (c) The following apply to the purchase of service credit under this  
19 section:

20 (1) The board may allow a member to make periodic payments of  
21 the contributions required for the purchase of service credit. The  
22 board shall determine the length of the period during which the  
23 payments must be made.

24 (2) The board may deny an application for the purchase of service  
25 credit if the purchase would exceed the limitations under Section  
26 415 of the Internal Revenue Code.

27 (3) A member may not claim the service credit for the purpose of  
28 computing benefits unless the member has made all payments  
29 required for the purchase of the service credit.

30 (4) To the extent permitted by the Internal Revenue Code and  
31 applicable regulations, a member may purchase service credit  
32 under this section by a rollover distribution to the fund from any  
33 of the following:

34 (A) A qualified plan described in Section 401(a) or Section  
35 403(a) of the Internal Revenue Code.

36 (B) An annuity contract or account described in Section 403(b)  
37 of the Internal Revenue Code.

38 (C) An eligible plan that is maintained by a state, a political  
39 subdivision of a state, or an agency or instrumentality of a state  
40 or political subdivision of a state under Section 457(b) of the  
41 Internal Revenue Code.

42 (D) An individual retirement account or annuity described in  
43 Section 408(a) or Section 408(b) of the Internal Revenue  
44 Code.

45 (d) A member who terminates employment before satisfying the  
46 eligibility requirements necessary to receive a monthly benefit may



withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 **or 6.5** of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 3. IC 5-10.2-3-6.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.2. **(a) This section applies to a member of the Indiana state teachers' retirement fund.**

**(b) A member who:**

- (1) has attained vested status in the fund;
- (2) has terminated employment;
- (3) has not begun receiving benefits; and
- (4) is transferring creditable service earned under ~~PERF~~ **or TRF** to another governmental retirement plan under section 1(i) of this chapter;

may suspend the member's membership and withdraw the member's annuity savings account to purchase creditable service in the other governmental retirement plan.

SECTION 4. IC 5-10.2-3-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.5. **(a) This section applies to a member of the public employees' retirement fund.**

**(b) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:**

- (1) The member has attained vested status in the fund.**
- (2) The member terminates employment.**
- (3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.**
- (4) The member is not eligible at the date of termination to receive a retirement benefit from the fund under IC 5-10.2-4-4, IC 5-10.2-4-5, or IC 5-10.2-4-6.**

**(c) A member who elects to withdraw the entire amount in the**



1 member's annuity savings account under subsection (b) shall  
2 provide notice of the election on a form provided by the board.

3 (d) The election to withdraw the entire amount in the member's  
4 annuity savings account is irrevocable.

5 (e) The board shall pay the amount in the member's annuity  
6 savings account as a lump sum.

7 (f) Except as provided in subsection (g), a member who makes  
8 a withdrawal under this section is entitled to receive, when the  
9 member becomes eligible to receive a retirement benefit under  
10 IC 5-10.2-4, a retirement benefit equal to the pension provided by  
11 employer contributions computed under IC 5-10.2-4.

12 (g) A member who:

13 (1) transfers creditable service earned under the fund to  
14 another governmental retirement plan under section 1(i) of  
15 this chapter; and

16 (2) withdraws the member's annuity savings account under  
17 this section to purchase the service;

18 may not use the transferred service in the computation of a  
19 retirement benefit payable under subsection (f).

20 SECTION 5. IC 5-10.2-4-1.3 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.3. (a) A member who  
22 files an application for retirement benefits must provide the following  
23 information on the application form:

24 (1) The retirement date chosen by the member.

25 (2) If the member has not elected to withdraw the entire  
26 amount in the member's annuity savings account under  
27 IC 5-10.2-3-6.5, whether the member chooses:

28 (A) an annuity purchased from the amount credited to the  
29 member in the annuity savings account;

30 (B) a total or partial distribution from the annuity savings  
31 account under section 2(b) of this chapter; or

32 (C) a deferral of the payment of any benefits from the annuity  
33 savings account under section 2(c) of this chapter.

34 (3) The name of the beneficiary or beneficiaries designated by the  
35 member with respect to the pension portion of the member's  
36 retirement benefit.

37 (4) The name of the beneficiary or beneficiaries designated by the  
38 member with respect to the annuity portion of the member's  
39 retirement benefit, unless the member chooses total distribution  
40 under section 2 of this chapter.

41 (b) A member's designation of beneficiaries in the application for  
42 retirement benefits supersedes any previous designation of  
43 beneficiaries by the member.

44 (c) A member must indicate the name, address, date of birth, and  
45 Social Security number of each designated beneficiary and provide  
46 proof of birth of each designated beneficiary.



(d) Each board shall adopt a form for the application for retirement benefits that meets the requirements of this section.

SECTION 6. IC 5-10.2-4-2, AS AMENDED BY P.L.62-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Unless a member elects otherwise under this section **or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5**, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. **If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i).**

(b) **If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5**, a member may choose at retirement or upon a disability retirement to receive a distribution of:

- (1) the entire amount credited to the member in the annuity savings account; or
- (2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), **if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5**, a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

- (1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and
- (2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

- (A) the entire amount credited to the member in the annuity



savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3, except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date. However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 7. IC 5-10.2-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply one and one-tenths percent (1.1%) times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on his retirement date.

Expressed mathematically:

$p = (.011) \text{ times } (aac) \text{ times } (scr)$

(c) Unless the member:

**(1) has chosen a lump sum payment under section ~~2~~ 2(b) of this chapter; or**

**(2) has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5; or**

**(3) elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter;**

the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the



board under IC 5-10.2-2-10 at an interest rate determined by the board.

SECTION 8. IC 5-10.2-4-7, AS AMENDED BY P.L.149-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. **A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.**

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus





1 (B) the total annuity payments paid and due to the member  
2 before the member's death.

3 (c) This subsection does not apply to a member of the Indiana state  
4 teachers' retirement fund after June 30, 2007. If:

5 (1) the designated beneficiary dies while the member is receiving  
6 benefits; or

7 (2) the member is receiving benefits, the member marries, either  
8 for the first time or following the death of the member's spouse,  
9 after the member's first benefit payment is made, and the  
10 member's designated beneficiary is not the member's current  
11 spouse or the member has not designated a beneficiary;

12 the member may elect to change the member's designated beneficiary  
13 or form of benefit under subsection (b) and to receive an actuarially  
14 adjusted and recalculated benefit for the remainder of the member's life  
15 or for the remainder of the member's life and the life of the newly  
16 designated beneficiary. The member may not elect to change to a five  
17 (5) year guaranteed form of benefit. If the member's new election is the  
18 joint and survivor option, the member shall indicate whether the  
19 designated beneficiary's benefit shall equal, at the option of the  
20 member, either the member's full recalculated retirement benefit or  
21 two-thirds (2/3) or one-half (1/2) of this benefit. The cost of  
22 recalculating the benefit shall be borne by the member and shall be  
23 included in the actuarial adjustment.

24 (d) Except as provided in subsection (c) or section 7.2 of this  
25 chapter, a member who files for regular or disability retirement may not  
26 change:

27 (1) the member's retirement option under subsection (b);

28 (2) the selection of a lump sum payment under section 2 of this  
29 chapter; or

30 (3) the beneficiary designated on the member's application for  
31 benefits if the member selects the joint and survivor option under  
32 subsection (b)(1);

33 after the first day of the month in which benefit payments are scheduled  
34 to begin. For purposes of this subsection, it is immaterial whether a  
35 benefit check has been sent, received, or negotiated.

36 (e) A member may direct that the member's retirement benefits be  
37 paid to a revocable trust that permits the member unrestricted access  
38 to the amounts held in the revocable trust. The member's direction is  
39 not an assignment or transfer of benefits under IC 5-10.3-8-10 or  
40 IC 5-10.4-5-14.

